

### REMARKS

Claims 10, 21, and 31 have been canceled.

Claims 1 – 9, 11 – 20, 22 – 30, and 32 have been amended. Except as noted below, the amendments to these claims have been made to clarify the language therein for clarity and consistency. No new matter has been added.

Reexamination and reconsideration are respectfully requested for amended claims 1 – 9, 11 – 20, 22 – 30, and 32, which have been rejected in their originally presented form on various grounds as follows.

Claims 1 – 6, 8 – 9, 11 – 17, 19 – 20, 22 – 27, 29 – 30 and 32 have been rejected under 35 USC §102(a), the examiner alleging that they are fully met by Jou, et al., (USP 6,480,472 (herein “Jou”)) As amended, all of the independent claims (1, 12, and 23) recite either method or apparatus for “determining if a frame is a DTX frame, including reclassifying improperly classified erasure frames to be DTX frames”. This is neither shown nor suggested by Jou. Although the examiner has alleged in his rejection of canceled claim 10 that this feature is taught by Jou at Col. 3, lines 8 – 30, this does not appear to be the case. Jou makes no mention whatsoever at this location of erasure frames, nor changing their classification to DTX frames if the threshold of the filter is above a particular threshold. For at least this reason, the independent claims, and therefore the claims that depend therefrom are not fully met by Jou, and their rejection should be withdrawn.

Claims 7, 18, and 28 have been rejected under 35 U.S.C. §103(a) as being obvious from Jou in view of Chen, et al, (US 6,335,990) (herein “Chen”).

Chen does not show or suggest “determining if a frame is a DTX frame, including reclassifying improperly classified erasure frames to be DTX frames”, as claimed in applicants’ amended independent claims. Since neither reference shows or suggests this claim limitation, singly or in combination, to include it in a system for detecting discontinuously transmitted (DTX) frames (claim 1), communication system (claim 12), or method for detecting discontinuous transmission (DTX) frames (claim 23) would not be obvious.

Moreover, Chen is directed to a system and method for spatial temporal filtering for improving compressed digital video. This is not technology in the same field of endeavor and is not reasonably pertinent to the particular problem with which the applicants were concerned, to

wit: detecting discontinuously transmitted (DTX) frames (claim 1), communication system (claim 12), and method for detecting discontinuous transmission (DTX) frames (claim 23). See, *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Chen is therefore nonanalogous art, and should not be used as a reference against claims in the nonanalogous art area.

Since claims 7, 18, and 28 depend respectively from independent claims 1, 12, and 23, which are patentable over the combination of Jou and Chen, for at least this reason, dependent claims 7, 18, and 28 are likewise patentable over this combination of references, and the rejection should be withdrawn.

Since claims 1 - 9, 11 - 20, 22 - 30, and 32, all as amended, have been shown to be patentable over the references cited thereagainst, as above set forth, it is respectfully requested that all of said claims be allowed and the case advanced to issue.

Respectfully submitted,

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